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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,413	09/03/2003	Charles D. Morris	15047US01	5462

7590 06/14/2005

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EXAMINER

JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/654,413		MORRIS ET AL.	
	Examiner		Art Unit	
	Monique R Jackson		1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 5-9, and 12-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2, 12, 13, 24 and 25 recite the limitation

3. The term "coarse particulate" in claims 2, 12, 13, 24 and 25, and the term "fine particulate" in claims 5-9, 16-20 and 29-33 are relative terms which render the claims indefinite. The terms "coarse" and "fine" are not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Hence, it is unclear what type of particulate material is considered to be coarse and what size particles are considered to be "fine".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1-26 and 28-37 are rejected under 35 U.S.C. 102(a) or 102(e) as being anticipated by Prevost I (USPN 6,551,689.) Prevost teaches a synthetic grass for installation on a supporting soil substrate wherein the synthetic grass comprises a pile fabric with a flexible, water-permeable backing 1 which may be formed of two or more layers (*reads on drainage layer positioned below the particulate layer as well as fixed barrier*) and rows of upstanding synthetic ribbons representing grass blades, extending upwardly from an upper surface of the backing 7, and an infill layer of two distinct graded courses of artificial particulate material disposed between the ribbons and of a depth less than the length of the ribbons (Abstract; Col. 5, lines 7-39; Col. 9, lines 36-40; Figure.) Prevost teaches that a bottom course of intermixed hard sand and resilient rubber granules are installed upon the backing 5 (*reads upon unbound particulate layer*) and a top course 6 exclusively of resilient rubber granules is placed upon the bottom course (*reads upon fine particulate dispersed into said artificial turf*) wherein the synthetic ribbons tend to retain the top rubber particles and provide a degree of resistance to particle displacement in the mixed bottom course (*hence reads upon protective cover layer*; Abstract, Col. 7, lines 34-47; Figure.) Prevost teaches that the thickness of the final layer of infill can be adjusted to provide the desired resilience or impact properties for a particular end use (Col. 12, lines 1-19.) Prevost further teaches that the synthetic grass assembly provides the look and feel of natural turf and may be used for an athletic playing field, playgrounds (*inherently includes a structure as instantly claimed*) or any area suitable for grass cover (Col. 4, line 65-Col. 5, line 6; Col. 10, lines 18-24.)

6. Claims 1-26 and 28-37 are rejected under 35 U.S.C. 102(b) or 102(e) as being anticipated by Jones (USPN 6,221,445, 102b), Prevost II (USPN 5,958,527, 102b) or Motz et al (USPN 6,800,339, 102e) wherein each of the references teach a layered artificial turf for recreational

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purposes such as playgrounds comprising an unbound particulate layer of rubber particles fixed by a barrier, a drainage layer positioned below the particulate layer, a protective surface layer of synthetic turf with fine particles dispersed into the turf, wherein the thickness of the particulate layer may be adjusted to provide a desired impact resistance (Abstracts, Figures, Claims.)

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prevost I, Jones, Prevost II, or Motz et al. The teachings of the references are discussed above and though the references teach that the artificial turf may be utilized for various recreational purposes such as playgrounds and that the thickness of the particulate layer may be adjusted to provide the desired resilience or impact resistance, the references do not specifically teach that the depth of the particulate layer is increased near playground structures. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to determine the optimum thickness of the particulate layer across the artificial turf based on the desired impact resistance and the desired use of the turf wherein it would have been obvious to one skilled in the art that the areas around structures to be utilized by users may require additional impact resistance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 571-272-1508.

The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Monique R. Jackson
Primary Examiner
Technology Center 1700
June 12, 2005